



Docket No.: V9661.0074

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of:
Hsiang-Fu Kung et al.

Application No.: 10/801,648

Confirmation No.: 2232

Filed: March 17, 2004

Art Unit: 1633

For: COMBINED ADENO-ASSOCIATED VIRUS
AND ADENOVIRUS COCKTAIL GENE
DELIVERY SYSTEM FOR HIGH
EFFICIENCY GENE EXPRESSION
WITHOUT ELICITING IMMUNE RESPONSE
IN IMMUNO-COMPETENT SUBJECTS

Examiner: R. M. Kelly

New York, NY
December 21, 2005

RESPONSE TO RESTRICTION REQUIREMENT

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed December 21, 2005 (Paper No. 11152005), applicants hereby provisionally elect Group II (claims 10-16, 23-26, 29 and 30) for continued examination.

The Examiner has required restriction between the following Groups:

I. Claims 1-9, 17-22, and 27-28, directed to compositions of nucleic acids comprising vectors and promoters operatively linked to sequences encoding polypeptides, classified in class 435, subclass 320.1; and

II. Claims 10-16, 23-26, 29 and 30, directed to methods of treatment with nucleic acids, classified in class 514, subclass 44.

The Office Action further requires that Applicants should elect a single disclosed species in each of the following subgroups:

(i) Either a promoter of bone morphogenetic protein or a CAG promoter, for claims 2, 3, 5, 6, 11, 12, 14, 15, 18, 19, 21, 22, 24 and 25; and

(ii) Either an AAV vector comprising a BMP-encoding sequence, or an AAV and AdV vectors, each comprising a BMP-encoding sequence, for claims 1, 4, 10, 13, 17, 20 and 23.

Applicants hereby provisionally elect a CAG promoter for subgroup (i) and a combination of AAV and AdV vectors, each of which comprises a BMP-encoding sequence, for subgroup (ii), for examination.

As a result, however, the pending claims would be only claims 23, 25, 26, 29 and 30 and Applicants believe that, under such a circumstance, including another species with regard to promoters, *i.e.*, a promoter of bone morphogenetic protein, would not cause a serious burden on the Examiner regarding search and examination.

Accordingly, Applicants respectfully request that the both species of promoters, *i.e.*, a promoter of bone morphogenetic protein and a CAG promoter, be examined together within Group II which Applicants have herein provisionally elected.

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No fee is believed to be due for this submission. Should any fee be required, please charge such fee(s) to Deposit Account No. 50-2215.

Dated: December 21, 2005

Respectfully submitted,

By 

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